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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION**

STEVEN MICHAEL SOSSAMON.

Case No. 1:23-cv-01187-SKO

Plaintiff.

V.

MARTIN O'MALLEY,
Commissioner of Social Security,¹

Defendant.

**STIPULATION AND
UNOPPOSED MOTION FOR THE
AWARD AND PAYMENT OF
ATTORNEY FEES AND
EXPENSES PURSUANT TO THE
EQUAL ACCESS TO JUSTICE
ACT: ORDER**

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount of EIGHT HUNDRED FORTY-NINE DOLLARS and 73/100 (\$849.73) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of zero dollars (\$0.00) under 28 U.S.C. §1920. This amount represents compensation for all legal services

¹ On December 20, 2023, Martin O’Malley was named Commissioner of the Social Security Administration. See <https://www.ssa.gov/history/commissioners.html>. He is therefore substituted as the defendant in this action. See 42 U.S.C. § 405(g) (referring to the “Commissioner’s Answer”); 20 C.F.R. § 422.210(d) (“the person holding the Office of the Commissioner shall, in [their] official capacity, be the proper defendant.”).

1 rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with
2 28 U.S.C. §§ 1920, 2412(d).

3 After the Court issues an order for EAJA fees to Plaintiff, the government will consider the
4 matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to Astrue v. Ratliff, 560 U.S.
5 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor the assignment will depend
6 on whether the fees are subject to any offset allowed under the United States Department of the
7 Treasury's Offset Program. After the order for EAJA fees is entered, the government will
8 determine whether they are subject to any offset.

9 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines
10 that Plaintiff does not owe a federal debt, then the government shall cause the payment of fees,
11 expenses and costs to be made directly to Counsel, pursuant to the assignment executed by
12 Plaintiff. Any payments made shall be delivered and made payable to Plaintiff's counsel, Jonathan
13 O. Peña. Additionally, any payment of costs under 28 U.S.C. §1920 may be made either by
14 electronic fund transfer (ETF) or by check.

15 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA
16 attorney fees, and does not constitute an admission of liability on the part of Defendant under the
17 EAJA or otherwise. Payment of the agreed amount shall constitute a complete release from, and
18 bar to, any and all claims that Plaintiff and/or Counsel including Counsel's firm may have relating
19 to EAJA attorney fees in connection with this action.

20 This award is without prejudice to the rights of Counsel and/or Counsel's firm to seek
21 Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause
22 provisions of the EAJA.

23 Respectfully submitted,

24
25 Dated: January 3, 2024

/s/ *Jonathan O. Peña*
JONATHAN O. PEÑA
Attorney for Plaintiff

26
27 Dated: January 3, 2024

PHILLIP A. TALBERT
United States Attorney

MATHEW W. PILE
Associate General Counsel
Office of Program Litigation
Social Security Administration

By: *_*Franco L. Bacia*
Franco L. Bacia
Special Assistant U.S. Attorney
Attorneys for Defendant
(*Permission to use electronic signature
obtained via email on January 3, 2024).

ORDER

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees and Expenses (the "Stipulation"), IT IS ORDERED that fees and expenses in the amount of EIGHT HUNDRED FORTY-NINE DOLLARS and 73/100 (\$849.73) as authorized by the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: January 4, 2024

/s/ Sheila K. Oberto

UNITED STATES MAGISTRATE JUDGE